

National Guard Duty Status Chart

(Category)	State Active Duty	Title 32	Title 10
Command & Control	State Governor	State Governor	Federal President
Who Performs duty	Federally organized NG	Organized NG in service of US ¹¹	AC ⁶ , RC and National Guard of US ¹¹
Where duty performed	IAW state law	CONUS	worldwide
PAY	IAW state law	Federal pay & allowances	Federal pay & allowances
Federal reimbursement	IAW Stafford Act ⁹ or Cooperative Agreement ¹⁰	N/A personnel cost paid by Federal funds	N/A personnel cost paid by Federal funds
Tort Immunity ⁴	IAW state law	FTCA	FTCA
PCA ¹ application	No	No	Yes
USERRA ²	No, IAW state law	Yes	Yes
SSCRA ³	No, IAW state law	No	Yes
Mission types	IAW state law	IDT, AT, state AGR & other Federally authorized	ODT, ADT, AGR & as assigned, subj. to PCA
Discipline	State military code	State military code	UCMJ ⁵
Federal retirement points	No	Yes	Yes
Other benefits	IAW state law	Federal	Federal
Medical	IAW state law	Federal	Federal
Disability	IAW state law	Federal	Federal
Involuntary order to duty	IAW state law	Yes ⁷	Yes ⁸
Voluntary order to duty	IAW state law	Yes	Yes

32 USC § 502(f) provides:

"Under regulations to be prescribed by the Secretary of the Army or Secretary of the Air Force, as the case may be, a member of the National Guard may-
 (1) without his consent, but with the pay and allowances provided by law; or
 (2) with his consent, either with or without pay and allowances; be ordered to perform training or other duty in addition to that prescribed under subsection (a). Duty without pay shall be considered for all purposes as if it were duty with pay."

1. Posse Comitatus Act (18 USC § 1385)
2. Uniformed Services Employment and Reemployment Rights Act (38 USC §§ 4301-4333)
3. Soldiers and Sailors Civil Relief Act (50 USC App. §§ 500-548, 560-591)
4. Federal Tort Claims Act (28 USC §§ 2671-2680)
5. Uniform Code of Military Justice (10 USC §§ 800-946)
6. Active component
7. 32 USC §502(f)(1)
8. Under Presidential Reserve Call-up (10 USC § 12304); partial mobilization (10 USC § 12302); or full mobilization (10 USC § 12301(a))
9. Stafford Act (42 USC § 5121) for disaster-related activities
10. Cooperative agreement if to perform an authorized National Guard function
11. 10 USC §§ 3062(c) and 8062(c)

*Source: http://www.nga.org/nga/legislativeUpdate/1.1169.C_ISSUE_BRIEF%5ED_2670.00.html

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